



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0656; FRL-9965-14-Region 4]

Air Plan Approval; Florida: Unnecessary Rule Removal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Florida State Implementation Plan submitted by the Florida Department of Environmental Protection (DEP) on February 20, 2013. The revision removes unnecessary and superseded rules from the Florida State Implementation Plan (SIP). Specifically, this revision removes non-regulatory introductory language, as well as a regulation that has been superseded by more stringent federal regulations. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective **[Insert date 60 days after publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-0656 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may

publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with 40 CFR 51.103, DEP submitted for EPA to review and approve revisions to Florida's SIP under the CAA. The SIP revision removes four rules from the SIP that are unnecessary or have been superseded by federal regulations. The rules requested to be removed from the SIP are Rule 62-210.100, Florida Administrative Record (F.A.C.), "Purpose and Scope;" Rule 62-212.100, F.A.C., "Purpose and Scope;" Rule 62-296.407, F.A.C., "Portland Cement Plants;" and Rule 62-297.100, F.A.C., "Purpose and Scope."

II. Analysis of State's Submittal

On February 20, 2013, the DEP submitted a SIP revision to EPA for review and approval. This SIP revision requests the removal of Rules 62-210.100, 62-212.100, and 62-297.100, F.A.C., each of which is titled "Purpose and Scope," because they contain unnecessary, introductory language for the associated rule chapters. This introductory language serves no regulatory purpose and can be removed without being considered a relaxation of a regulation. The language merely introduces the regulatory chapter that follows and does not impose any regulatory requirements.

This SIP revision also removes Rule 62-296.407, F.A.C., "Portland Cement Plants," from the current SIP. Particulate matter (PM) emissions from Portland cement kilns and clinker coolers are more stringently regulated under 40 CFR part 60, subpart F (Standards of Performance for Portland Cement Plants), and 40 CFR part 63, subpart LLL (National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry), than under Rule 62-296.407, F.A.C. The Florida DEP has been delegated the authority to implement and enforce both part 60, subpart F, *see* 55 FR 23077 (June 6, 1990) and 63 FR 50163 (September 21, 1998), and part 63, subpart LLL, *see* 40 C.F.R. 63.99(a)(10). All Portland cement facilities in Florida originally subject only to Rule 62-296.407, F.A.C., have either been permanently shut down or modernized such that the emission limits set forth in the federal regulations currently apply. Actual PM emissions are expected to decrease in the future as facilities come into compliance with 40 CFR part 63, subpart LLL, as most recently amended on September 11, 2015. *See* 80 FR 54728.

These changes are consistent with section 110 of the CAA and meet the regulatory

requirements pertaining to SIPs. Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The revision of Rules 62-210.100, 62-212.100, 62-296.407, and 62-297.100 and, F.A.C., are approvable under section 110(l) because they would not interfere with the attainment and maintenance of the NAAQS.

III. Final Action

Pursuant to section 110 of the CAA, EPA is approving the revision to the Florida SIP removing unnecessary rules from the SIP. EPA has evaluated Florida's February 20, 2013, submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations and is consistent with EPA policy.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective **[Insert date 60 days from the date of publication]** without further notice unless the Agency receives adverse comments by **[Insert date 30 days from date of publication]**.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time.

If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication]** and no further action will be taken on the proposed rule.

Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business

Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 7, 2017.

V. Anne Heard,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart K – Florida

§ 52.520 [Amended]

2. Section 52.520(c) is amended by removing the entries for “62-210.100,” “62-212.100,” “62-297.100,” and “62-296.407.”

[FR Doc. 2017-15268 Filed: 7/20/2017 8:45 am; Publication Date: 7/21/2017]